

**COURT OF APPEALS OF INDIANA
ORAL ARGUMENT AT A GLANCE
VALPARAISO HIGH SCHOOL
AUDITORIUM**



Pablo Madrigal v. State of Indiana

Appeal from:
St. Joseph Superior Court,
The Honorable
Jane Woodward Miller, Judge

Oral Argument:
Friday, October 30, 2009
10:00 a.m.
20 minutes each side

CRIMINAL LAW ISSUE

Today the court will hear arguments regarding whether a trial court abused its discretion when it ordered Pablo Madrigal to serve the remainder of his twenty-year sentence in a state prison after he violated the rules of his home detention by possessing a handgun.

CASE SYNOPSIS

Facts and Procedural History

In 2005, Madrigal pled guilty to one count of possession of over three grams of cocaine with the intent to deliver, a Class A felony. On August 1, 2006, the trial court sentenced Madrigal to twenty years with fifteen years suspended and five years served on home detention followed by two years of probation. St. Joseph County Community Corrections ("SJCCC") monitored Madrigal's home detention.

On March 28, 2007, SJCCC, on behalf of Madrigal, petitioned the trial

court to modify Madrigal's placement because he had accumulated sufficient points under SJCCC's system to be moved to a less-restricted level of supervision. SJCCC informed the trial court that Madrigal "has had no behavior problems in more than a year under our supervision. He is employed full-time and is current on his fees." Appellant's Appendix at 60. The trial court granted the petition on April 13, 2007, authorizing SJCCC to modify Madrigal's placement as it deemed appropriate. On November 5, 2007, Madrigal's SJCCC

Pablo Madrigal v. State of Indiana

CASE SYNOPSIS

case manager sent a letter to the trial court seeking review of Madrigal's sentence for possible early termination. The letter informed the trial court that Madrigal "has shown excellent behavior ... has maintained suitable, full-time employment, remained drug-free and has not been the subject of any misconduct reports throughout his entire time under our supervision." *Id.* at 56. The trial court responded to the letter stating it was not inclined to modify Madrigal's sentence because he had served only sixteen months for a Class A felony.

On April 21, 2008, an SJCCC home detention officer conducting field site checks visited Madrigal's home. After ringing the doorbell, the officer noticed a pile of 9mm shell casings near the front door of Madrigal's home. The officer questioned Madrigal about the shell casings, and Madrigal replied that his children had picked them up off of the street. The next day, SJCCC home detention officers with the assistance of the South Bend Police Department conducted a search of Madrigal's home. The officers found a 9mm handgun in a box located on the top of a curio cabinet in Madrigal's bedroom. Madrigal explained he was holding the gun for a friend who had returned to Mexico and could not take the gun across the border.

On the basis of the search, the State filed a petition to revoke Madrigal's suspended sentence and placement. Madrigal subsequently admitted violation of the terms of his placement, and the trial court held a sentencing hearing on January 12,

2009. Following the hearing, the trial court ordered Madrigal to serve the remainder of his twenty-year sentence with the Department of Correction, i.e. in a state prison. Madrigal now appeals.

Arguments

Madrigal contends the trial court abused its discretion by requiring him to serve out the rest of his original twenty-year sentence in a state prison. Once Madrigal admitted violating the terms of his home detention, a statute gave the trial court three choices on how to proceed: 1) do nothing; 2) allow Madrigal to continue to serve his sentence on home detention but change the terms of his detention; or 3) revoke the home detention placement and require Madrigal to serve out his entire sentence in a state prison. Madrigal argues the trial court should have allowed him to continue to serve his sentence on home detention but changed the terms of the detention because prior to being caught with the handgun, he had an exemplary record of behavior with SJCCC.

Pablo Madrigal v. State of Indiana

CASE SYNOPSIS

Glossary:



9mm: When discussing a handgun, the term 9mm refers to the caliber of the gun, which is the inside diameter of the gun's barrel. The term can also refer to the diameter of ammunition. Thus, a 9mm handgun would use 9mm bullets as ammunition.

Class A Felony: A Class A felony is the classification for the most serious crimes under Indiana law except for murder which has a separate classification. A person convicted of a Class A felony faces a possible sentence of between twenty and fifty years in prison and a fine of up to \$10,000.

Department of Correction: The Department of Correction is the state agency in charge of running the state's twenty-one adult prisons and six juvenile facilities where most convicted felony offenders serve their sentences.

Home Detention: Home detention is a part of the Department of Correction's community corrections program that allows certain convicted offenders to serve their sentences in places other than jails or prisons. An offender on home detention may live at home and often can travel to and from a place of work. They may be monitored

with an electronic device that allows them to be tracked at all times or may be monitored by community corrections staff conducting spot checks at their home.

Possession of Cocaine: A person who possesses with the intent to deliver three grams of cocaine or more commits the crime of dealing in cocaine, a Class A felony.

Suspended Sentence: When a trial court imposes a sentence after conviction for a crime, the trial court may opt to suspend a portion of the sentence. This means, the offender does not have to serve that portion of the sentence. However, a trial court will often attach certain conditions to the suspended sentence and may require an offender to serve the entire sentence if he or she violates one of those conditions.

TODAY'S PANEL OF JUDGES

Hon. Margret G. Robb (Tippecanoe County), Presiding

- Judge of the Court of Appeals since July 1998

Margret G. Robb was appointed to the Indiana Court of Appeals in July 1998 by Gov. Frank O'Bannon. She holds a B.S. and M.S. in Business Economics from Purdue, and is a 1978 Magna Cum Laude graduate of Indiana University School of Law - Indianapolis.

Prior to joining the Court she was engaged in the general practice of law for 20 years in Lafayette and was a Chapter 11, 12 and a Standing Chapter 7 Bankruptcy trustee for the Northern District of Indiana; and the Federal Advisory Committee for the expediting of Federal Litigation. She was a registered family and civil law mediator and served as a Tippecanoe County Deputy Public Defender. She chairs the Supreme Court Task Forces on Family Courts, the development of Trial Court Local Rules, and is involved in several projects to benefit the Indiana legal system. She has also served as a member of the Indiana Board of Law Examiners, the Governance Committee of the Supreme Court IOLTA (Interest On Lawyers' Trust Accounts) Committee; the Federal Advisory Committee on Local Rules for the Federal Court for the Northern District of Indiana; and Federal Advisory Committee for the expediting of Federal Litigation.

Judge Robb has held numerous Board positions for and been an officer for the Indiana State Bar Association,

Indiana Bar Foundation, Tippecanoe County Bar Association, Indianapolis Bar Association, Indianapolis Bar Foundation, American Bar Foundation, National Association of Women Judges, Indiana University School of Law at Indianapolis Alumni Association, and speaks frequently on legal topics for attorneys and other judges.

Judge Robb was Founding Chair of the Governor Otis Bowen's Commission on the Status of Women; was a recipient of the 1993 Indiana State Bar Association's "Celebrating 100 Years of Women in the Legal Profession" award; the 2001 Maynard K. Hine distinguished alumni award, given in recognition of support and service to IUPUI and Indiana University; the 2004 Bernadette Perham "Indiana Women of Achievement" Award, bestowed by Ball State University in honor of one of their outstanding professors; the 2005 Indiana State Bar Association's Women in the Law Recognition Award; and the 2006 Tippecanoe County YWCA Salute to Women "Women of Distinction" Award.

Judge Robb, who was retained on the Court of Appeals by election in 2000, lives in West Lafayette with her husband, a Professor of Communication at Purdue (M.A. and Ph.D., Indiana University). Their son, Douglas, a graduate of the U.S.N.A., recently returned from his second deployment.

TODAY'S PANEL OF JUDGES

Hon. Nancy H. Vaidik (Porter County)

- Judge of the Court of Appeals since January 2000

Nancy H. Vaidik was appointed to the Court by Governor Frank O'Bannon on January 19, 2000. Judge Vaidik, who grew up in Portage, Indiana, graduated from Valparaiso University with High Distinction in 1977 and Valparaiso University School of Law in 1980.

Prior to her elevation to the appellate court, Judge Vaidik served as a trial court judge in Porter County for seven years. She began her legal career with the Porter County Prosecutor's Office, achieving the status of chief deputy prosecutor before joining the law firm of J.J. Stankiewicz and Associates.

Judge Vaidik is a former adjunct professor of law at Valparaiso University School of Law and is currently an adjunct professor of law at Indiana University School of Law in Bloomington. She teaches for the National Institute for Trial Advocacy and the College of Law of England and Wales. She is

the former president of the Indiana Judge's Association and has received numerous awards, including the Indiana Domestic Violence Coalition Judge of the Year and the Paragon of Justice award from the BLSA and HLSA chapters at Valparaiso University School of Law.

Judge Vaidik, who was retained on the Court by election in 2002, is married and has two daughters.

"Appeals on Wheels"

The Court of Appeals hears oral argument at venues across the state to enable Hoosiers to learn about the judicial branch.

This initiative began statewide just prior to the Court's centennial in 2001.

The Court of Appeals has held over 250 "on the road" cases since early 2000.

Sites for traveling oral arguments are often law schools, colleges, high schools, and county courthouses.

TODAY'S PANEL OF JUDGES

Hon. Paul D. Mathias (Allen County)

- Judge of the Court of Appeals since March 2000

Paul D. Mathias was appointed to the Indiana Court of Appeals for the Third District in March, 2000. Prior to his appointment, he served as a judge of the Allen Superior Court – Civil Division in Fort Wayne for eleven years and before that as the referee of its Small Claims Division for four years.

Judge Mathias was born in LaGrange, Indiana, and grew up in the Fort Wayne area. He graduated with honors from Harvard University in 1976 and from the Indiana University School of Law in Bloomington in 1979, where he was a member of the moot court team. Until his appointment as small claims court referee he practiced law for six years in a medium-sized Fort Wayne law firm, concentrating in construction law, personal injury, domestic relations, and appellate practice.

Like all judges on the Court of Appeals, Judge Mathias writes over 150 opinions each year and votes on more than 300 opinions written by his fellow judges. Off the bench, he also maintains a keen interest in civic education. Judge Mathias is especially proud of his deep and long-standing commitments to the *We The People* program, which is the

civics education program sponsored by the Indiana Bar Foundation, Indiana State Bar Association, and the Indiana Judges Association, and to the Indiana Judges Association itself, which he has served as President and for which he continues to serve as a legislative liaison to the General Assembly. He is also an active member of national, state and local bar associations.

Judge Mathias has been honored to receive the Centennial Service Award from the Indiana State Bar Association, “[i]n recognition of the Indiana bar and judiciary, living and deceased, who have provided outstanding leadership and service to the public and the profession,” and a Sagamore of the Wabash award from Governors O’Bannon and Kernan.

Judge Mathias and his wife, Carlabeth, have been married thirty-three years and are the proud parents of two sons, Ethan and Corbin. Carlabeth is a child and family counselor in Hamilton County. They enjoy travel, music, theater, and doing just about anything together as a family.

ATTORNEYS FOR THE PARTIES

For Appellant, Pablo Madrigal:

Jeffrey Sanford
212 S. Taylor Street
South Bend



Jeffrey L. Sanford received his B.A. from Purdue University in 1982 and his J.D. from Valparaiso University in 1988.

He was admitted to the Indiana Bar in 1988. He is also admitted to the Federal District Court for the Northern and Southern Districts of Indiana and the U.S. 7th Circuit Court of Appeals.

Mr. Sanford started his career as a Deputy Prosecuting Attorney in 1988. He went into private practice in

1990 and started his own practice in 1992.

Mr. Sanford practices in the area of criminal defense and has extensive jury trial experience. He represented two death penalty defendants as appointed counsel. He represents the City of South Bend in all of its tort claim litigation.

Mr. Sanford is a member of the Indiana State Bar Association.

For Appellee, State of Indiana:

Angela Sanchez
Attorney General's Office
Indianapolis

Angela Sanchez was born and raised in Danville, Indiana. She obtained her B.A. in English and Philosophy in 2003 from IUPUI. Following graduation, she worked for a small law firm specializing in collections when she decided to join her husband in law school. She obtained her J.D. *magna cum laude*, from Indiana University School of Law at Indianapolis in 2007. She joined the Office of the Attorney General as a Deputy in the Litigation Division, primarily representing

state agencies at the trial level. She now works in the Appeals Division where she represents the State in non-capital cases on direct appeal.

She lives in Indianapolis with her husband who is a Marion County Public Defender, representing indigent defendants at trial. This is Ms. Sanchez's first oral argument before the Court of Appeals.